IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 19806 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

SHARDABEN RAGHUPATI SHASTRI - Petitioner(s)

Versus

STATE BANK OF INDIA - Respondent(s)

==========

Appearance :

MS MEGHA R CHITALIA for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1,
MRS SUMAN KHARE for Respondent(s) : 1,

==========

CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 01/12/2005

ORAL JUDGMENT

Rule. Mrs. Suman Khare, learned advocate waives service of Rule on behalf of respondent No.1. With the consent of the parties, the matter is taken up for final hearing today.

2. In this petition under Article 226 of the

Constitution of India, the petitioner, widow of one Raghupati Chimanlal Shastri who unfortunately died on 17.11.2000 and whose PPF account was with the respondent Bank, has prayed for an appropriate writ, order or direction directing the respondent SBI to accept the petitioner as 'sole nominee' and act on behalf of her late husband Raghunath Chimanlal Shastri for the purposes of PPF A/c. bearing No. 10022897216 existing in the said SBI, Shahibaug Branch, Ahmedabad and to pay the whole amount of credit balance of the said account, including all interest etc., as on date of payment, to the petitioner.

3. It is the contention on behalf of the petitioner that her late husband who was having the PPF account with the SBI, Shahibaug Branch, Ahmedabad has unfortunately died on 17.11.2000 leaving behind him the petitioner, one son and one daughter. It is also further submitted that in the said PPF account amount of more than Rs. 8 lakhs is in credit which the petitioner is entitled to. It is further submitted that according to the petitioner at the time when the PPF account was opened, son of the petitioner as well as the petitioner were nominated as nominees. However, subsequently the passbook was lost and they applied for a duplicate passbook in which by mistake the names of the nominees are not mentioned. It is the contention on behalf of the petitioner that on the death of her late husband when

she had gone there to get the said amount the petitioner was informed to obtain succession certificate and only thereafter the amount which was lying in the PPF account would be paid. Mrs. Megha Chitaliya, learned advocate appearing for the petitioner has submitted that in fact there is no dispute amongst the heirs of the deceased and the son and daughter of the petitioner who are also heirs of late Raghupati Chimanlal Shastri have also given their no objection in their affidavit which was produced before the SBI, still the amount is not paid to the petitioner. She has relied upon the judgment of the Bombay High Court in the case of Arumugam Chelliah Paul (since deceased by L.Rs.) and Others Vs. Life Insurance Corporation of India, reported in AIR 1990 Bombay 255 on the proposition that if there is no dispute as to whether who are the heirs and legal representatives of policy-holder, production of succession certificate is not necessary. It is therefore requested to allow the present Special Civil Application.

4. Mrs. Suman Khare, learned advocate appearing on behalf of respondent No.1 Bank has submitted that there is no dispute that an amount of Rs. 8,22,788.10 ps., was lying in the PPF account of late husband of the petitioner as on 31st March 2005, however with a view to safeguard the interests of the Bank succession certificate is always insisted upon before making payment of any amount so as to avoid any

possible claim from the heirs of the original account-holder.

5. Heard the learned advocates appearing for the parties. It is the contention on behalf of the petitioner that at the time when the PPF account was opened somewhere in the year 1983 the names of the petitioner and her son were given as nominees, however subsequently in the duplicate passbook which was issued at the instance of the petitioner the names of such nominees were not shown. It is the submission of the petitioner that her son and daughter are the only heirs of Ragupati Chimanlal Shastri her late husband and they have no objection in making payment to the petitioner. Hence the prayer of the petitioner to hold that she is the sole nominee of her late husband cannot be accepted. However, the amount which is lying in the PPF account of the petitioner can be directed to be paid on imposition of certain terms and conditions so that ultimately if there is any dispute with regard to entitlement of the amount and/or share of the amount the Bank may not have to enter into any unnecessary litigation. Having regard to the facts and circumstances, the respondent Bank is directed to consider the request of the petitioner to pay to her the amount which is lying in the PPF account of her late husband Raghupati Chimanlal Shastri on production of no objection letter from the son and

daughter of the petitioner that they are the only heirs of their father Raghupati Chimanlal Shastri and that they have no objection if the entire amount is paid to the petitioner, their mother and such no objection must be on an affidavit and/or the same be supported by an affidavit, and the respondent Bank may call upon the petitioner to see that her son and daughter may remain present before the Bank for proper identification and verification and after completion of the aforesaid formalities, the respondent Bank, having satisfied itself that payment of any amount to the petitioner will not be detrimental to the interests of the Bank and/or the heirs of the deceased, is directed to make payment of the said amount to the petitioner. The aforesaid exercise be done within the period of six weeks from today.

6. Rule is made absolute to the aforesaid extent with no order as to costs. Direct service is permitted.

[M.R. Shah, J.]

RMR.